

REMARKS

Claims 21-46 were examined and reported in the Office Action. Claims 21-46 are rejected. Claim 21 has been amended. Claims 21-46 remain.

Applicant requests reconsideration of the application in view of the following remarks.

It is asserted in the Office Action that Claims 21-46 are rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. Claims 21-46 are rejected under 35 USC 112, second paragraph, as being vague and indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 21-46 are rejected under 35 USC 103(a) as being unpatentable over John Cook newspaper article "Well-Funded Xpertsite.com Making Hay With Its Popular Answer Service" in view of previously cited archived web pages of Keen.com.

Regarding the rejection under 35 USC 112, first paragraph, the Examiner contends that paragraph [0134] does not provide sufficient support for the limitation "hiding contact information of the receiver from the communication device of the user."

In response, reference is made to paragraphs [0149] and [0150] where Applicant has specifically detailed the "hidden" address aspect of the invention as follows,

[0149] A web based implementation is also preferable because in the preferred embodiment of the present invention, the Merchant Intermediary encrypts or keeps secret from the Caller party the address or location of the Receiver party's account or address,

[0150] It can be easier for the Merchant Intermediary to encrypt a message or keep a Caller Parties address secret in a web-based implementation. For example, in a web-based implementation, a Caller party never has to even enter any address information into the message, it can be automatically and secretly entered so as to prevent the Caller party from knowing the Receiver party's mailbox, address, or account information.

The web mail aspects of the invention are described in paragraphs [0139]-[0152]. Thus, by reading paragraphs [0149], [0150] and the disclosure relating to the web-based implementation of the invention, a person skilled in the art would be readily able to implement the 'hidden' address as part of the invention.

In general, the Examiner too narrowly focuses on the issue of whether Applicant has explicitly and in detail specified the technical aspects of anonymous remailer. The Examiner ignores that throughout the Application, Applicant has indicated that the intermediary can re-transmit or forward the email to an account. Implicit and explicit in the concepts of forwarding and retransmitting are that the original sender does not know the address or location of the final destination. Since the original Sender is not aware of the address or location of the final destination, the final destination is "hidden" or not disclosed to the original Sender as that term is used by Applicant. With respect to how one could implement the forwarding, the specification is clear. See paragraphs [0078- 8009], [0094-0098], and [0143- 0150].

Accordingly, since Applicant has detailed the technical aspects of transmitting, and forwarding the email such that a person reasonably skilled in the arts could implement "hiding" the address or location of the final destination, reconsideration and withdrawal of the rejection under 35 USC 112, first paragraph is requested.

With respect to the rejection under 35 USC 112, first paragraph, based on the contention that the specification does not adequately teaches how the invention can be implemented with only one communication device, Applicant responds as follows.

In the specification, the following parties have communications devices: (a) Sender; (b) Receiver; (c) Network Intermediary.

Since there are three parties who have communication devices, this ground for rejection is not understood. If maintained by the Examiner, it is requested that the Examiner further explain this rejection.

However, in an attempt to deal with this rejection, the web mail aspect of the invention is described in paragraphs [0139-0152]. Confusion seems to arise because the Examiner does not recognize that the invention is an Intermediary "market maker" standing between the Sender and the Receiver. The Intermediary stands between the Sender and Receiver. The Intermediary is the party that "hides" the Receiver's account information or destination location of the text or communication from the Sender.

In view of this explanation, reconsideration and withdrawal of the rejection under 35 USC 112, first paragraph is requested.

At page 5 of the Action, the Examiner rejects Claims 21-46 under 35 USC 103 as being unpatentable over Cook in view of Keen. However, at page 6 of the Action, the Examiner notes that Cook in view of Keen does not explicitly recite contact information of the Receiver as hidden from the communication device, and otherwise makes it clear that the independent claims 21, 31 and 39 are rejected based upon the combination of Cook, Keen and Lu which the Examiner contends supplies the claim element missing from Cook and Keen. In this connection, Applicant has amended Claim 21 to make it clear that it is the contact information of the Receiver which is hidden from the communication device, and identification of the User is tracked for a return communication from the Receiver. Claims 31 and 39 have been amended to expressly state that the return communication is from the Receiver. Thus, each of the independent claims includes a limitation which the Examiner contends is supplied by newly cited Lu which is set forth in the Action as having a filing date of November 22, 2000. In the copy of Lu provided by the Examiner, it appears that Lu may have a filing date of September 5, 2000.

However, regardless of the correct filing date, submitted herewith is the Declaration of the invention which it is made clear that Applicant conceived the invention prior to the earliest filing date of Lu, i.e., at least as early as September 5, 2000, and from prior to that date until the actual filing date of the application on February 5, 2001, diligently worked to reduce the invention to practice by filing the application.

In view of the foregoing, Applicant submits that it has been demonstrated that Applicant's invention predates the filing date of Lu and, therefore, Lu is not prior art. Since Lu was required to support the rejection of independent Claims 21, 31 and 39, reconsideration and withdrawal of the rejection of the independent claims under 35 USC 103 is requested. Further, since the remaining claims depend from one of the independent claims, and add further limitations thereto, Applicant submits that all of the claims pending for examination, namely Claims 21-46 are in condition for allowance, which early Action is requested.

If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: December 9, 2008

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Linda Merz

12/10/08
December 10, 2008

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